

CERTIFIED TRANSLATION



Law No. 29 of 2019

(S. B. 1258); 2019, act 29

Law to Reduce the Administrative Burdens of Municipalities.
Law No. 29 enacted on May 17, 2019

To establish the “Law to Reduce the Administrative Burdens of Municipalities,” for the purpose of reducing the administrative burden of municipalities in respect of charges paid by the same to the government health plan and the “Pay as you Go” system; to amend Section 9 of Article VI of the “Puerto Rico Health Insurance Administration Act,” Law 72-1993, as amended, and Article 3.5 of the “Law to Guarantee Pensioner Payment and Establish a New Defined Contribution Plan for Public Servants,” Law 106-2017, as amended, to make the reduction of said burdens viable; and for other related purposes.

STATEMENT OF PURPOSE

Municipalities are the government entities most accessible to the residents of Puerto Rico. As a result, historically, municipalities have needed to provide the services required by the “Autonomous Municipality Act,” as well as assume responsibilities of the central government, excluding the corresponding assignment of funds.

It is no secret that municipalities, like the Government of Puerto Rico, are suffering a huge financial crisis. However, since they are entities of the State, their alternatives to overcome the crisis are limited. As if that was not enough, the Puerto Rico Fiscal Plan, approved by the Financial Oversight and Management Board for Puerto Rico (“JSF,” acronym in Spanish), under the “Puerto Rico Oversight, Management, and Economic Stability Act” (“PROMESA”), Public Law 114-187, contemplates reducing fund transfers from the General Fund to municipalities until they are eliminated as of the year 2023. Annually, that amount was around \$360 million dollars.

Aware of the impact that the elimination of what are known as “subsidies” shall have on municipalities, this Legislative Assembly has identified two administrative expenses that have been assumed by municipalities and have had a big impact on their funds. These are the payments made by the same in respect of the health plan of the Government of Puerto Rico and “Pay as you Go” system, under the provisions of the “Puerto Rico Health Insurance Administration Act,” Law 72-1993, as amended, and the “Law to Guarantee Pensioner Payment and Establish a New Defined Contribution Plan for Public Servants,” Law 106-2017, as amended. It is estimated that the fiscal impact on municipalities in respect of those two items amounts to four hundred million dollars (\$400,000,000) annually.

The present Law eliminates the obligation of municipalities to contribute to the Government health plan and “Pay as you Go” system. Instead, the Municipal Income Collection Center (“CRIM,” acronym in Spanish) shall withhold, in the Equalization Fund, fifty percent (50%) of the amount that municipalities would have the obligation to disburse to ASES, based on the amount invoiced for fiscal year 2015-2016, and up to ninety percent (90%) of the amount that municipalities would have to pay for “Pay as you Go,” based on the amount invoiced for fiscal year 2017-2018, to be distributed to municipalities

A handwritten signature in blue ink, appearing to read "pep".

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in accordance with the rules applicable to said fund. The surplus shall be distributed in cash among the municipalities, based on the proportion of their contribution to the money transfers. The foregoing would significantly reduce the administrative burden of municipalities, resulting in more and better services for citizens.

THE PUERTO RICO LEGISLATIVE ASSEMBLY HEREBY DECREES:

Article 1.- This Law shall be known as the “Law to Reduce the Administrative Burdens of Municipalities”.

Article 2.- The present Law is adopted for the purpose of reducing the administrative burden of municipalities in relation to payments made in respect of the health plan of the Government of Puerto Rico and the “Pay as you Go” system, under the provisions of Law 72-1993, as amended, known as the “Puerto Rico Health Insurance Administration Act,” and Law 106-2017, as amended, known as the “Law to Guarantee Pensioner Payment and Establish a New Defined Contribution Plan for Public Servants”.

Article 3.- Section 9 of Article VI of Law 72-1993, as amended, known as the “Puerto Rico Health Insurance Administration Act,” is amended to read as follows:

“Section 9.- Health Plan and Administration Financing; Other income.

The health plan established under this law and the Administration operational expenses shall be paid for in the following manner:

(a)...

...

(d) The municipal government budget assignment for direct health services in areas covered by health plans shall be based on the percents contained in the following Table of the Ordinary Fund Budget of municipalities, excluding the Additional Special Contribution (CAE, acronym in Spanish), and federal funds based on the ordinary fund budget corresponding to the previous fiscal year, starting from July 1, 1997.

...

While the structure for municipal contribution to the cost of the Health Reform for Fiscal Year 2005-2006 and subsequent fiscal years is revised, municipalities shall contribute an amount equal to the percent established for Fiscal Year 2004-2005 or the current fiscal year, whichever is lower, as provided in its budget. In the case of the Municipality of San Juan, the latter shall contribute the amount resulting from applying the Table to the budget for fiscal year 2004-2005 or the current fiscal year, whichever is lower. In relation to municipalities which provide preventive direct or indirect health services, the CRIM shall withhold the payment to ASES until said institution agrees with the municipality the return in respect of the corresponding contribution of those municipalities, as required by Article 14 of Law 3-2003. The ASES shall totally or partially reimburse municipalities for all expenses incurred for direct or indirect health services provided by the municipalities without any restriction. However, from July 1, 2018 to September 30, 2019, which is equal to the amount of two hundred and two million dollars (\$202,000,000), municipalities shall be exempt from compliance with this provision; therefore, they shall not have any obligation to make contributions to the health plan created by the present Law. Of said total, fifty percent (50%) or the amount of one hundred and one million dollars (\$101,000,000) shall be received by the municipalities in cash and the remaining fifty percent (50%) or the amount of one hundred and one million dollars (\$101,000,000) shall be received by them as credit for the debt of municipalities with the Administration of Retirement Systems of Public Employees, as established in Law 106-2017, known as “Pay as you Go,” as of June 30, 2018. If a municipality does not have a debt or the debt is lower than the corresponding resources, said credit shall be disbursed in the manner stated in the following paragraph.

Starting from September 30, 2019, municipalities shall not be obligated to make contributions to the health

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insurance plan created by the present Law.

(e)..."

Article 4.- Article 3.5 of Law 106-2017, as amended, known as the "Law to Guarantee Pensioner Payment and Establish a New Defined Contribution Plan for Public Servants," is amended to read as follows:

"Article 3.5.- Employer Obligations, Penalties.

All employers of New Defined Contribution Plan Participants shall have the following obligations:

(1)..."

(2)..."

a. The Retirement Board, its designated person, or the Administrative Entity shall request, in writing, and including an official debt certification:

i..."

ii..."

iii. To the Municipal Income Collection Center (CRIM), that it send, within seven (7) days following the notice in writing, to the New Defined Contribution Plan and/or the Account for Payment of Accrued Pensions, the amounts of Contributions Owed by the Municipal employer, from the uncommitted surplus of taxes on property value and other income which municipalities have the right to receive in accordance with Law 80-1991, as amended, known as the "Municipal Income Collection Center Act". From the moment that this Law comes into effect, a preferential lien is established on said uncommitted surplus, automatically and permanently, on behalf of the Retirement Board and/or the Administrative Entity, in order to collect the Owed Contributions, without requiring any other act, possession of, or control over the same. It is also provided that, from fiscal year 2019-2020, municipalities shall not have the obligation to make the payment to "Pay as you Go," nor shall the Municipal Income Collection Center (CRIM) be obligated to send payments for these purposes.

iv..."

Article 5.- Starting from September 30, 2019, the Municipal Income Collection Center (CRIM) shall withhold, in the Equalization Fund, fifty percent (50%) of the amount that municipalities would have had to disburse to the ASES, based on the amount invoiced for fiscal year 2015-2016, to be distributed to the municipalities in accordance with the rules applicable to said fund according to Law 80-1991, as amended, known as the "Municipal Income Collection Center Act". The remaining fifty percent (50%) shall be distributed in cash among the municipalities, based on the proportion of their contribution to the money transfers.

In addition, starting from the fiscal year beginning on July 1, 2019, the CRIM shall withhold, in the Equalization Fund, up to ninety percent (90%) of the amount that municipalities would have had to disburse to the Retirement Board and/or the Administrative Entity in respect of the payment for "Pay as you Go," created by Law 106-2017, as amended, based on the amount invoiced for fiscal year 2017-2018, to be distributed to the municipalities in accordance with the rules applicable to said fund according to Law 80-1991, as amended, known as the "Municipal Income Collection Center Act". The surplus shall be distributed in cash among the municipalities, based on the proportion of their contribution to the money transfers.

Article 6.- This Law shall come into effect immediately after it is approved.

Important Notes:

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